



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 177452

PRELIMINARY RECITALS

Pursuant to a petition filed on October 18, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department regarding Medical Assistance (MA), a hearing was held on November 30, 2016, by telephone.

The issue for determination is whether the agency properly denied MA for the Petitioner's husband due to assets exceeding the program limit.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On July 8, 2016, the Petitioner completed a renewal for healthcare benefits. On July 11, 2016, the agency issued a Notice of Proof Needed requesting verification of the cash surrender value of

a life insurance policy owned by the Petitioner. The due date for the information was July 20, 2016.

3. On July 16, 2016, the agency received verification that the cash surrender value of the Petitioner's life insurance policy was \$11,783.04 as of July 10, 2016.
4. On July 18, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her husband [REDACTED] was not eligible for MA benefits effective August 1, 2016 due to being over the asset limit. The notice informed the Petitioner that the agency counted assets of \$11,926.77 including the Petitioner's life insurance policy's cash surrender value.
5. On October 10, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her husband [REDACTED] was not eligible for MA benefits effective November 1, 2016 due to being over the asset limit. The notice informed the Petitioner that the agency counted assets of \$11,926.77 including the Petitioner's life insurance policy's cash surrender value.
6. On October 18, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The MA asset limit for an individual is \$3,000. Wis. Stat., §49.47(4)(b)3g. If assets are above that limit, the person is not eligible for MA.

To determine whether an individual is eligible, the agency must add together all countable, available assets of the MA fiscal group. Medicaid Eligibility Handbook (MEH), § 16.1 A fiscal group include the individual who is nonfinancially eligible for MA and anyone who lives with him or her. MEH, § 1.1.3.2. Spouses who live together are in each other's fiscal group which means that the income and assets of both spouses are counted when determining MA eligibility for either or both spouses. Id. Countable assets include joint financial accounts, burial assets, available cash, investments, life insurance, non-burial trusts, land contracts, mortgages, loans, real property (excluding homestead) and some vehicles. MEH, 16.1. A fiscal group's assets must be within the appropriate asset limit before any member of that group can qualify for MA. Fiscal groups who have assets in excess of the appropriate asset limit are ineligible for MA.

In this case, the Petitioner and her husband did not dispute that her life insurance policy had a cash surrender value of \$11,926.77 as of July 10, 2016. They asserted that it was her life insurance policy, not her husband's, and felt it should not be counted in determining his eligibility. Based on the MA regulations stated above, the assets of both the Petitioner and her husband must be counted by the agency in determining the eligibility of either spouse. Therefore, I conclude the agency properly determined the Petitioner's husband was not eligible for MA based on assets over the program limit.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's husband was not eligible for MA based on assets over the program limit.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 5th day of January, 2017

\s _____
Debra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 5, 2017.

Kenosha County Human Service Department
Division of Health Care Access and Accountability